



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,714	11/28/2000	A.J. Paul Carew	066303.0111	7701
7590	09/07/2005		EXAMINER MEHRA, INDER P	
Baker Botts L.L.P. 2001 Ross Avenue Dallas, TX 75201-2980			ART UNIT 2666	PAPER NUMBER

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,714

Applicant(s)

CAREW ET AL.

Examiner

Inder P. Mehra

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58-114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This is in response to an amendment dated 5/9/2005, which has been fully considered and made of record. Based on this amendment dated 12/20/04, claims 1-57 had been cancelled, and claims 58-114 were added previously. Claims 58, 72, 89, 100 and 111 were amended. Claims 58-114 are now pending.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969). A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 2666

3. Claims 58, 72, 89, 100 and 111 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046. Although the conflicting claims are not identical, they are not patentably distinct from each other because.

For claims 58, 72, 89, 100 and 111, claims 1, 4, 5, 7, 9, 10, 13, 15 and 18 of U.S. Patent No. 6,526,046 disclose:

“A gateway for communicating telecommunication information between a telecommunication network and customer premises equipment, the gateway comprising (see claim 1 of U.S. Patent No. 6,526,046):

- a telecommunication interface operable to receive first telecommunication information for a first subscriber and second telecommunication information for a second subscriber; (see claim 1 of U.S. Patent No. 6,526,046), (see claim 1 of U.S. Patent No. 6,526,046); and
- a packetization module operable to generate first ATM cells (first data packets) for communicating the first telecommunication information using a first ATM adaptation layer (first communication protocol) associated with the first subscriber and to generate second ATM cells (data packets) for communicating the second telecommunication information using a second ATM adaptation layer (second data communication protocol) associated with the second subscriber; (see claim 1 of U.S. Patent No. 6,526,046).

For claim 111, claims 15 and 18 of U.S. Patent No. 6,526,046 disclose:

Art Unit: 2666

- wherein the gateway is further operable to communicate the ATM cells to the customer premises equipment using DSL, cable, wireless, or other broadband distribution platforms(see claims 15 and 18 of U.S. Patent No. 6,526,046).

Applicant's claims 58, 72, 89, 100 and 111 merely broaden the scope of US Patent No. 6,526,046 claims 1, 4, 5, 7, 9, 10, 13, 15 and 18 by replacing the terms "ATM cells", "a first ATM adaptation layer (AAL)" (for claims 1, 4, 5, 7, 9, 10, 13, 15 and 18) with "data packets"; "a first data communication protocol" respectively for claims 58, 72, 89, 100 and 111. The ATM cells and data packets; and "a first data communication protocol" and "a first ATM adaptation layer (AAL)" are the same application elements. It has been held that the substitution of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re karlsen, 136 USPTO 184 (CCPA). Also, note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969) ; substitution of a reference element whose function is needed would be obvious to one skilled in the art.

Applicant's claim 111 recites additional elements Digital Subscriber Line Access Multiplexer (DSLAM) and Cable Modem Termination System (CMTS). These are well known in the art , and disclosed by Lor et al (US Patent No. 6,201,562), refer to fig. 6, col. 6 lines 52-62 (see paragraph 11 below);

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 2666

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 58-65, 67, 72-79, 81, 89-95, 99-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al** (US Patent No. 5,610,910), hereinafter, Focsaneanu; and further in view of **Chao et al** (US Patent No. 5,050,164), hereinafter Chao.

For claims 58, 72, 89 and 100, Focsaneanu discloses a gateway (access module 208, refer to col. 4 lines 64-65) for communicating telecommunication information, refer to 208 of fig. 7, refer to col. 4 lines 40-67; comprising:

step of extracting information content from user/subscriber profile/file to determine required services---between CPE and the communication network; determining appropriate routing; (*telecommunication interface for a first subscriber and second telecommunication information for a second subscriber from a telecommunication network*), refer to col. 4 lines 40 –col. 5 line 12.

(*one or more packetization* (extracting information content from user profile, refer to col. 5 line 4, determining the protocol, routing and address refer to col. 5 lines 6-8 and 1-12) *modules operable to generate first data packets for communicating the first telecommunication information according to a first data communication protocol associated with the first subscriber and to generate second data packets for communicating the second telecommunication information according to a second data communication protocol associated with the second subscriber*), refer to col. 6 line 53-col. 7 line 50;

Focsaneanu discloses a memory operable to store subscriber profiles---
telecommunication interface, as recited by claim 89, (an access module (gateway), further,

Art Unit: 2666

includes a storage (memory) for storing information concerning user profile (subscriber profile), refer to col. 5, lines 2-6; database (memory), refer to col. 8 lines 14-16;

Focsaneanu discloses a telecommunication interface -----subscriber, as recited by claim 89; refer to col. 10 line 46-col. 11 line 6.

Focsaneanu discloses packetized data traffic and packetized voice, refer to col. 11 lines 1-15, (a packetization module -----information associated with a subscriber (user profile, col. 11 line 2) from the data packets using a data communication protocol (ATM and Frame Relay, col. 11 line 6)-----subscriber, as recited by claim 89);

Focsaneanu does not disclose expressly, using terms: “a first data communication protocol or second data communication protocol, first subscriber, second subscriber, first telecommunication information, second telecommunication information etc.”;

Chao discloses, a unique protocol capable of handling services with multiple priorities (unique protocol is unique to each subscriber’s profile as stored /desired by subscriber”, refer to col. 17 lines 5-7;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the protocol unique to the subscriber as prescribed in subscriber’s profile, as taught by Chao. The use of unique protocol in broadband network is advantageous to CPE. The suggestion/motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services.

For claims 59, 61, 73, 75, 90, 92, 101 and 103, Focsaneanu discloses each of a plurality subscribers is associated with a separate telecommunication interface, refer to col. 4 lines 45-48;

Art Unit: 2666

and “the telecommunication interface module is further operable-----the first telecommunication”, refer to col. 4 lines 45-48, col. 8 lines 11-25.

For claims 60, 74, 91 and 102, Focsaneanu discloses the telecommunication interface---- analog line----switch, POTs, refer to col. 7 lines 29-32 and fig. 7, TR 303 col. 10 line 51.

For claims 62, 76, 93 and 104, Focsaneanu discloses, “the subscriber identifier is a name address, or telephone number, refer to col. 8 lines 16-22, 30, col. 13 lines 62-67.

For claims 63, 77, 94 and 105, Focsaneanu discloses, “one or more compression modules operable-----subscriber”, refer to (compression techniques, col. 7 line 3, 552 col. 11, lines 20-22, col. 12 line 60.

For claims 64 and 78, Focsaneanu discloses all the features of claim 6 including compression techniques at gateway, refer to col. 7 line 3 ; and memory operable to store first subscriber profile----compression algorithm----, as recited by claims 7 and 21, database for packet assembly and disassembly, refer to col. 8 lines 22-24 and col. 7 lines 3 and col. 11 lines 15-21.

For claims 65 and 79, Focsaneanu discloses all the features of claim 6 including: “management module (246 of fig. 8) operable to select, for the first subscriber, a compression module supporting the first compression algorithm, col. 7 line 3, 552 col. 11, lines 20-22, col. 12

Art Unit: 2666

line 60; and a packetization module supporting the first data communication protocol, refer to col. 8 lines 11-43.

For claims 67, 81 and 99, Focsaneanu discloses all the features of claims 58, 72 and 89, including: “one or more network interface modules operable to communicate the first data packets----using first data link-----second data link-----second subscriber, refer to col. 4 lines 40—col. 5 line 12 and col. 45-65.

For claims 95 and 106, Focsaneanu discloses all the features of claims 89 and 100 including a network interface module operable to communicate the data packets using data link associated with the subscriber, refer to col. 8 lines 53-55, (access a plurality of different types of CPEs), col. 7 lines 12, col. 7 lines 26-35.

6. Claims 66, 69-70, 80, 83-84, 96-97 and 107-110 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al**, hereinafter, Focsaneanu, in view of **Chao et al**, hereinafter Chao, as applied to claims 1 above; further in view of **Pounds et al** (US Patent No. 6,560,222), hereinafter, Pounds.

For claims 66, 69-70, 80, 83-84, 96-97 and 107-110 both Focsaneanu and Chao disclose all the features and limitations of claims 66, 69-70, 80, 83-84, 96-97 and 107-110 with the exception of , “a management module operable to assign at least *one time slot of a time division multiplexing (TDM) bus* to communicate the first telecommunication information----“, as recited by claims 97, 108-110; “*echo cancellation modules ---on the first telecommunication*

Art Unit: 2666

interface”, as recited by claims 69, 83, 96 and 107 and “*TDM bus—telecommunication information—and a data packet bus —first data packets to packetization module—*”, as recited by claims 70 and 84;

Pounds discloses “a management module operable to assign at least *one time slot of a time division multiplexing (TDM) bus* to communicate the first telecommunication information---“; refer to col. 8 lines 60-63; “*echo cancellation modules ---on the first telecommunication interface*, refer to col.8 lines 2; and “*a data packet bus ---first data packets to packetization module--- and TDM bus—telecommunication information---*”, refer to col. 9 lines 50-53; .

Pounds does not disclose expressly whether echo cancellation be used in the second telecommunication information, as recited by claims 69 and 83.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to assign at least *one time slot of a time division multiplexing (TDM) bus and echo cancellation* to communicate the first telecommunication information. The capability of using time slots of a time division bus is provided by combining it in access module 234 of fig. 8. The suggestion/motivation to do so would have been to provide desired characteristics of voice data signals for customer premises network which uses broadband to deliver all services and also to save bandwidth.

7. Claims 68, 82, 86 and 111-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al** (US Patent No. 5,610,910), hereinafter, Focsaneanu; and further in view of **Chao et al** (US Patent No. 5,050,164), hereinafter Chao, further in view of **Lor** (US Patent No. 6,201,562).

For claims 68, 82, 86 and 111-112, Focsaneanu discloses a gateway (access module 208, refer to col. 4 lines 64-65) and method for of interfacing CPEs' and communicating telecommunication information, refer to 208 of fig. 7, refer to col. 4 lines 40-67; comprising:

- ***telecommunication interface----- for a first subscriber and second telecommunication information for a second subscriber from a telecommunication network*** (step of extracting information content from user/subscriber profile/file to determine required services---between CPE and the communication network; determining appropriate routing;), refer to 208 of fig. 7, refer to col. 4 lines 40-67; comprising:
- ***one or more packetization*** (extracting information content from user profile, refer to col. 5 line 4, determining the protocol, routing and address refer to col. 5 lines 6-8 and 1-12) ***modules operable to generate first data packets for communicating the first telecommunication information according to a first data communication protocol associated with the first subscriber and to generate second data packets for communicating the second telecommunication information according to a second data communication protocol associated with the second subscriber***, refer to col. 6 line 53-col. 7 line 50;
- one or more network interface modules operable to communicate the first data packets-----using first data link-----second data link-----second subscriber, refer to col. 4 lines 40—col. 5 line 12 and col. 45-65;

Focsaneanu does not disclose expressly, terms: “a first data communication

Art Unit: 2666

protocol or second data communication protocol, first subscriber, second subscriber, first telecommunication information, second telecommunication information etc.”, as recited by claims 68, 82, and 86;

Focsaneanu does not disclose expressly, using terms: “wherein the first data link communicates the first data packets to a digital subscriber line access multiplexer (DSLAM); and the second data link communicates the second data packets to a cable modem termination system (CMTS) or a base station controller (BSC), as recited by claims 68, 82, 86, and 112;

Chao discloses, a unique protocol capable of handling services with multiple priorities (unique protocol is unique to each subscriber’s profile as stored /desired by subscriber”, refer to col. 17 lines 5-7;

Lor discloses, “wherein the first data link communicates the first data packets to a digital subscriber line access multiplexer (DSLAM); and the second data link communicates the second data packets to a cable modem termination system (CMTS) or a base station controller (BSC), as recited by claims 68, 82, 86, and 112”, refer to fig. 6, col. 6 lines 52-62;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the protocol unique to the subscriber as prescribed in subscriber’s profile, as taught by Chao, and DSLAM and CMTS . These capabilities can be implemented by using the systems used by Chao and Lor at CPE. The suggestion/motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services at high bandwidth.

Art Unit: 2666

8. Claims 71, 85, 98 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Focsaneanu et al**, hereinafter, Focsaneanu; in view of **Chao et al**, hereinafter Chao, as applied to claims 71, 85, 98 and 109 above; further in view of **Lyles et al** (US Patent no. 6,563,829), hereinafter, Lyles.

For claims 71, 85, 98 and 109, both Focsaneanu and Chao disclose all the features and limitations of claims 71, 85, 98 and 109 and, with the exception of the limitation, ***“IEEE 802.6 bus operable to communicate the first data packets----”***;

Lyles discloses, ***“IEEE 802.6 bus operable to communicate the first data packets----”***; refer to col. 5 lines 9-11---for point to point link between user and terminal equipment sites;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use ***“IEEE 802.6 bus operable to communicate the first data packets----”***; refer to col. 5 lines 9-11---for point to point link between user and terminal equipment sites;. The capability of using ***IEEE 802.6 bus*** is provided by combining it in access module 234 of fig. 8. The suggestion/motivation to do so would have been to provide desired characteristics of voice data signals for customer premises network, as set forth in user profile, which uses broadband to deliver all services and also to save bandwidth.

9. Claims 87-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Chao, and Lor, as applied to claims 68, 82, 86 and 111, further in view of **Health Jr. et al** (US Patent No. 6,678,253), hereinafter Health.

For claims 87 and 88, Focsaneanu discloses a gateway (access module 208, refer to col. 4 lines 64-65) and method for of interfacing CPEs' and communicating telecommunication information, refer to 208 of fig. 7, refer to col. 4 lines 40-67; comprising:

- ***telecommunication interface----- for a first subscriber and second telecommunication information for a second subscriber from a telecommunication network*** (step of extracting information content from user/subscriber profile/file to determine required services---between CPE and the communication network; determining appropriate routing;), refer to 208 of fig. 7, refer to col. 4 lines 40-67; comprising:
- ***one or more packetization*** (extracting information content from user profile, refer to col. 5 line 4, determining the protocol, routing and address refer to col. 5 lines 6-8 and 1-12) ***modules operable to generate first data packets for communicating the first telecommunication information according to a first data communication protocol associated with the first subscriber and to generate second data packets for communicating the second telecommunication information according to a second data communication protocol associated with the second subscriber***), refer to col. 6 line 53-col. 7 line 50;
- one or more network interface modules operable to communicate the first data packets-----using first data link-----second data link-----second subscriber, refer to col. 4 lines 40—col. 5 line 12 and col. 45-65;

Focsaneanu does not disclose expressly, terms: “a first data communication

Art Unit: 2666

protocol or second data communication protocol, first subscriber, second subscriber, first telecommunication information, second telecommunication information etc.”,

Focsaneanu does not disclose expressly, using terms: “wherein the first data link communicates the first data packets to a digital subscriber line access multiplexer (DSLAM); and the second data link communicates the second data packets to a cable modem termination system (CMTS) or a base station controller (BSC),

Chao discloses, a unique protocol capable of handling services with multiple priorities (unique protocol is unique to each subscriber’s profile as stored /desired by subscriber”, refer to col. 17 lines 5-7;

Lor discloses, “wherein the first data link communicates the first data packets to a digital subscriber line access multiplexer (DSLAM); and the second data link communicates the second data packets to a cable modem termination system (CMTS) or a base station controller (BSC)”, refer to col. 6 lines 52-65;

Focsaneanu, Chao and Lor do not disclose Base station controller (BSC), as recited by claims 87 and 88;

Health discloses, “communicating the second data packets to a base station controller (BSC) using second data communication protocol”, refer to col. 7 lines 5-6;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the protocol unique to the subscriber as prescribed in subscriber’s profile, as taught by Chao, DSLAM and CMTS and BSC as taught by Health. These capabilities can be implemented by using the systems used by Chao, Lor and Health at CPE. The suggestion/

Art Unit: 2666

motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services at high bandwidth.

10. Claims 113 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Focsaneanu in view of Chao and Lor, as applied to claim 111 above, further in view of **Health Jr. et al** (US Patent No. 6,678,253), hereinafter, Health.

For claims 113-114, Focsaneanu and Chao disclose all the limitations of subject matter with the exception of the following limitations:

- * “wherein the gateway generates data packets for communication to the digital subscriber line access multiplexer (DSLAM); or a base station controller (BSC), as recited by claim 114”;
- * “a base station controller (BSC) operable to communicate at least some of the data packets generated by the gateway to a wireless network interface unit (WNIU) using a wireless link”, as recited by claim 113.

Lor discloses, “wherein the gateway generates data packets for communication to the digital subscriber line access multiplexer (DSLAM); or a base station controller (BSC), as recited by claims 68, 82, 86 and 112, ”, refer to col. 6 lines 52-65;

Health discloses, “a base station controller (BSC) operable to communicate at least some of the data packets generated by the gateway to a wireless network interface unit (WNIU) using a wireless link”, refer to col. 7 lines 5-6;

It would have been obvious to a person of ordinary skill in the art at the time of the invention to generate packets for communication to the DSLAM and BSC, as taught by Lor and

Art Unit: 2666

Health. These capabilities can be implemented by using the systems used by Focsaneanu, Chao, Lor and Health at CPE. The suggestion/motivation to do so would have been to provide desired characteristics for customer premises network which uses broadband to deliver all services at high bandwidth.

Response to Arguments

11. Applicant's arguments filed 7/2/04 have been fully considered but they are not persuasive.

a. Applicant argues "However, the Examiner's cited references do not disclose, teach, or suggest "one or more packetization modules operable to generate first data packets for communicating the first telecommunication information to first customer premises equipment according to a first data communication protocol associated with the first subscriber and to generate second data packets for communicating the second telecommunication information to second customer premises equipment according to a second data communication protocol associated with the second subscriber," as recited in Claim 58. The Examiner incorrectly relies on Focsaneanu to show this limitation. The Examiner has yet to provide an adequate response to Applicants' argument that Focsaneanu does not disclose, teach, or suggest generating data packets for communicating telecommunication information to customer premises equipment according to **at least two data communication protocols**. The mention of protocol adaptation cited by the Examiner relates to communication across a transport network (such as the PSTN or a data network in Figure 6/-not communication from access module 208 to CPE connector 202, 204, and 206 using local access 210. Focsaneanu does not indicate that **two or more protocols**

Art Unit: 2666

may be used to generate data packets for communicating voice or other telecommunication information from access module 208 to CPE connector 202, 204, and 206 using local access 210.

In response, it is stated that limitation “two or more protocols may be used to generate data packets for communicating voice or other telecommunication information from access module 208 to CPE connector 202, 204, and 206 using local access 210”.

In response, it is stated that Focsaneanu ‘910 discloses “At present, however, different types of networks, both channelized and packetized, exist separately and independently”, refer to col. 2 lines 40-42 (emphasis added).

In response, it is stated that Focsaneanu ‘910 discloses “a plurality of different types of CPEs can access a plurality of different types of services provided by service providers which may utilize different types of transport networks, (e.g. PSTN 212 and data switched networks 214), refer to fig. 7. The data switched networks may include, among other networks, a packet switched network, an ATM network using protocols such as TCP/IP, X.25, ATM, etc.”, refer to col. 7 lines 10-18.

b. Applicant argued previously, “In Applicants' previous Response filed July 2, 2004, Applicants cited the same portion of Focsaneanu and pointed out that Focsaneanu describes packetizing voice for communication across the data network 214-not for communication from the PSTN 212 to the customer premises 202, 204 or 206. See Fig. 7. In

particular, **Focsaneanu states, that access module (208) can packetize voice at PAD 550 and route voice traffic on a data network."** (Col. 11, lines 12-14) (emphasis added).

In response, it is stated that FIG. 5 shows diagrammatically how telephone sets and computers are connected through a PSTN in the known ISDN environment, which is packetized environment. An ISDN terminal 120 is connected by way of a network termination 122 to ISDN linecard 124 through a digital subscriber loop (DSL) 126. **Not only that, CPE is in the recipient of communication path, refer to fig. 7**

Further, it is stated that Focsaneanu '910 discloses "The transmission format can also be **adapted at the access module** (gateway) (which is rate adaptation, protocol adaptation, etc.) **to better match the terminals, transport, or service capability available, refer to col. 7 lines 5-10.**

Further, it is stated that Focsaneanu '910 discloses "analyzes the contents of a data connection request to identify the service requested. Upon identification of the type of service requested, the controller performs address conversion, protocol conversion, rerouting etc. and **exchanges packetized data formed at PAD 254, refer to col. 8 lines 15-25.**

c. Applicant argues that Focsaneanu '910 does not describe voice for communication from the customer premises to a data network-**not for communication from the PSTN to the customer premises, refer to page 19 of remarks/arguments by applicant** .

In response , it is stated that fig. 7 illustrates telephone (POTS) carrying voice communicates in packetized enjoinments of ISDN including PSTN 212.

d. Applicant argues that Focsaneanu '910 does not disclose a gateway that uses a

Art Unit: 2666

data communication protocols associated with the subscriber to generate the data packets --- telecommunication from the PSTN.

In response, it is stated that the limitation “communication from PSTN to the customer” was not claimed in these claims. However, responses by examiner are provided as follows:

Focsaneanu ‘910 discloses “The transmission format can also be adapted at the access module (gateway) (e.g. rate adaptation, protocol adaptation, etc.) to better match the terminals, transport, or service capability available, refer to col. 7 lines 5-10.

In response, it is stated that Focsaneanu ‘910 discloses “According to one aspect, the invention provides bi-directional emulation of the modem at the access, refer to col. 6 lines 65-67. Refer to fig. 4 wherein communication takes place between PSTN and subscribers. PSTN operates in channelized mode and provides continuous connection to another subscriber 22. The telephone service is established through a connection protocol, refer to col. 1 lines 45-47.

Further, it is stated that Focsaneanu ‘910 discloses “It is called collectively a service provider but in reality there are many service providers including PSTN providers, data switched network providers, data network access service providers, database service providers, wireless access providers, CATV service providers etc. CPEs are able to seamlessly access various services provided by the service provider through local access and cooperating modules called CPE connector”, refer to col. 7 lines 20-30.

e. Applicant argues previously and pointed out that Focsaneanu describes

Art Unit: 2666

packetizing voice for communication across the data network 214-not for communication from the PSTN 212 to the customer premises 202, 204 or 206. See Fig. 7. In particular, Focsaneanu states, the access module (208) can packetize voice at PAD 550 and route voice traffic on a data network." (col. 11 lines 10-15 (emphasis added)).

In response, it is stated that the invention relates particularly to a multi-service platform which allows a plurality of CPEs accessing any services provided by a plurality of service providers which may utilize any of the plurality of telecommunication networks, refer to col. 1 lines 10-15. As responded in previous "Final" response.

Further, please, refer to paragraph (b) above, wherein it was responded in "FINAL" office action that the limitation "communication from PSTN to the customer" was not recited in these claims. However, responses by examiner are provided as follows:

Focsaneanu '910 discloses "The transmission format can also be adapted at the access module (gateway) (e.g. rate adaptation, protocol adaptation, etc.) to better match the terminals, transport, or service capability available, refer to col. 7 lines 5-10.

In light of above explanation, arguments by applicant are not persuasive.

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 2666


the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


FRANK DUONG
PRIMARY EXAMINER


Inder P Mehra
Examiner
Art Unit 2666
9/3/05